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THE INFERIOR CRIMINAL COURTS OF NEW YORK CITY¹

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In a city like New York, the so-called "inferior" criminal courts are quite as important to the great mass of the people as the higher courts; they touch the lives of nearly half a million people each year, and perform other services to the state and the community than the administration of justice. With our large percentage of foreign-born citizens, they are a very real factor in Americanization. Living as foreigners do in New York, in little communities of their own, alien cities within a great American city, where one may walk nearly half a dozen crowded blocks and not hear ten words of English spoken—many of these foreigners have their first real contact with the new government under which they live when they are brought to court for some infringement of the law. This makes it doubly important that the impression gained should be one of real justice, dignified, yet so simple that our new citizen is not merely bewildered by red tape and complicated formalities which he cannot understand, but inculcated with the idea that the law is to be respected and obeyed.

In 1907, it would have been difficult for a defendant, wherever he had been born, to have felt that he was receiving simple, dignified justice in a New York police court. The court system had grown in a topsy-turvy manner. The old justice of the peace courts fitted to rural communities had been enlarged and multiplied to fulfill the needs of a rapidly growing city. They were independent of any central administration. There was no co-operation between the judges of the different districts. Justice was a matter of individual temperament, influenced often by ward politics rather than by considerations of right or wrong. The children's court was not very much better.

So outrageous had conditions become that a popular monthly magazine published an article entitled, "The Farce of Police Court Justice in New York," with a sub-title reading, "Magistrates, Lawyers, Ward Heelers, Professional Bondsmen, Clerks of the Court and Probation Officers Join to Make a Mockery of the Supreme Court of the

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Poor." The article went on to give a fairly adequate picture of the manner in which the poor, the weak and frightened, the unjustly accused and the unfortunate, were shamefully exploited by corrupt politicians; the defendant often being an entire outsider in the whole proceeding whereupon hung his good name and his liberty. All this because of public ignorance and indifference.

Then, New York woke up.

The Charity Organization Society, after a hard fight against organized political power, secured the passage of legislation which called for the appointment by the governor of a commission to investigate these lower courts and make recommendations. This was known as the Page Commission.

After two years of careful inquiry and study, this commission submitted its final report to the legislature, and with it a bill embodying the changes they recommended. This bill became law, and was known as the Inferior Criminal Courts Act of 1910. It is the basis of our system of inferior criminal courts of New York City.

In order to have available at all times the advice and assistance of non-partisan public-spirited men who were willing to give their time and energy to secure a simple, honest administration of justice in the lower courts to which the poor and ignorant most often came, the Charity Organization Society organized the Committee on Criminal Courts, which has co-operated with the judges and court officers in every way and at all times to maintain the highest possible morale in the inferior criminal courts.

Ever since the Inferior Criminal Courts Act was passed the committee has had to be on the alert to combat reactionary legislation which would render all or parts of it ineffective. The greatest possible compliment which could be paid to such a measure has been the opposition of corrupt politicians.

New York is fortunate in having as chief justice of Special Sessions, presiding justice in the Children's Court, and chief city magistrate, honest men, uninfluenced by politics. So fearless have they been that only this spring a bill was introduced which, had it passed, would have legislated out of office the chief justice of the Court of Special Sessions and the chief city magistrate, and also provided that these positions be filled once in four years by each incoming mayor, thereby returning to the realm of politics the control of these courts. The committee fought this bill vigorously and so aroused public sentiment that the large delegation of men and women representing powerful civic organizations who went to the hearing in Albany to protest its

passage were needed more to emphasize than to complete its defeat.

We realize that these courts are far from perfect today, and yet when one looks back to the conditions of 1907, and compares them to the conditions brought about by the passage of this act, it is possible to hope for an equal gain in the next ten years.

One great improvement has been the centralized control, with one administrative head for each court system, a central bureau of records, including finger-prints, and an organized probation department for each court, with the officers social workers rather than policemen assigned to that particular job.

In the act as passed in 1910, the Children's Court was still a part of the Court of Special Sessions, but in 1915 it became a separate division, with complete authority for its own administration.

The inferior criminal courts include the Magistrates' Courts, formerly known as police courts, the Court of Special Sessions, and the Children's Court. The magistrates and justices of Special Sessions as well as the chief city magistrate and chief justice of Special Sessions are appointed by the mayor for ten-year terms, the judges of the Children's Court are Special Sessions judges designated as Children's Court judges by the mayor. The assignments to the special Magistrates' Courts are made by the chief city magistrate.

As the subject of the inferior courts of New York is too big to be dealt with in a limited space, I am going to confine myself more especially to the Magistrates' Court—that "supreme court of the poor."

It is a court of first instance. To it are brought persons charged with felony, misdemeanor, or the violation of a law or ordinance, which is neither a felony nor a misdemeanor. In cases where the charge is felony, the magistrate must decide if there is sufficient evidence to warrant the case being held for the grand jury, or for the Court of Special Sessions if the charge is misdemeanor. In all other cases, which constitute 75% of the entire number, the magistrate has final jurisdiction.

As there are over 200,000 arraignments each year in the thirty-one Magistrates' Courts of New York City, the number of cases coming before a magistrate during one day in a district court as well as the diversity, make it practically impossible for him to acquire any special social or technical knowledge of each case. The man who has knocked another down in a street fight, or who has stolen something may be convicted and sentenced on straight facts with the help of an investigation by the probation officer if it is a first offense or there

seem to be extenuating circumstances, but there are other cases which require more carefully study and more special knowledge.

To meet this need there are five special Magistrates' Courts and a sixth is about to be established. Three of these were made possible by an amendment of 1915, which says: "That the Board of City Magistrates may provide for the holding in any borough such special city Magistrates' Courts or Courts of Special Sessions for the trial of specified cases of offenses or offenders, and to be held at such time and place as they may determine."

One of these is a special court more because of the hours it is held and because its territorial jurisdiction is not restricted to the regular court districts than for any other reason. This is the Men's Night Court, to which all men go who are arrested after the close of the district courts. This court was established so that men arrested in the late afternoon or evening for any offense might have an immediate arraignment.

Until April 21, 1919, the Women's Night Court received all women arrested after the close of the district courts. Most of these were cases of prostitution.

When the first Night Court was established it received both men and women, but the number of the cases was so great and the conditions which resulted were such that separate night courts for men and women were created. These filled a real need, and distinct abuses were corrected by their existence—especially the bail bond evil—but as time went on the Women's Night Court developed unfortunate features—it became a show place on a par with Chinatown. Fashionable folk, after a good dinner, or curious sight-seers in search of excitement would drop in for a free evening's entertainment. On one occasion a young woman asked a court attendant during a recess if there were any "good stunts" coming on after the recess. And not only these morbidly curious came, but girls from the street dropped in now and then to size up detectives; cadets and their like frequented the court to keep tabs on their girls or to look for new recruits. The judges sitting there felt strongly against being part of such a show and tried to keep out all persons who had no legitimate reason for being there, but as it was a court where public business was transacted it was difficult to refuse admittance to any one who claimed an interest in a case. I remember on one occasion when there was some tittering among the spectators, the magistrate ordered all persons who had no direct interest in the case to leave the court room. A few went, but not enough to satisfy the judge, who left the bench, went to

the railing, and pointing to one person after another, asked them why they were there. This was effective, as many slunk out, but it could not happen more than once.

A study of the court records for 1917 showed that as adjournments were taken in 80% of the cases the need for an immediate trial had passed. The Committee on Criminal Courts therefore fathered legislation providing for a separate day court for women. This bill passed the legislature, but was vetoed by the mayor. It was, however, introduced again, and the interest of various women's organizations was aroused, so that in 1918 it became a law, but could not immediately become effective because there was no court room available, as the Women's Night Court had used the room occupied in the daytime by a district court. It took the combined efforts of eighteen women's organizations to secure the desired court room, but as they succeeded, New York now has a separate court for women held in the daytime with little or no publicity.

This has become practically a social evil court, although cases of shoplifting are brought there for preliminary examination; strike cases and incorrigible and wayward girls come within its jurisdiction, and some drug cases, but such cases of intoxication as now occur go to the district courts.

The magistrates of the Men's Night Court rotate as they do in the district courts; the magistrates of the Women's Court are assigned by the chief city magistrate. There are four who share the work there, sitting for ten to twenty days at a time. New York is fortunate in the four men who sit in that court. They are free from any political influence, they are deeply interested in the welfare of the unfortunate girls and women who come before them, and sincerely try to decide what is best for the future of the individual before them as well as for the community. The Women's Court is not an easy one in which to sit, as the judges there are a constant target for unfair and unjust criticism. The general public does not stop to think that a judge administers the laws as they exist, and every now and then some newspaper decides that the laws are unjust and launches an attack on one or more of the judges of the Women's Court.

Since the so-called Whitney Law has been passed, which provides that every woman convicted of prostitution shall receive medical examination, those in need of special treatment for venereal disease are sent to hospitals or institutions. The war has made us study the problem of prostitution from a broader angle than ever before, and it is believed by those interested that the operation of this law pro-

viding for a medical examination may at least help toward the reduction of venereal disease.

The Probation Department of the Women's Court plays an important part in its effectiveness. The four women probation officers are supplemented by excellent social service organizations, which have done splendid reformatory work, especially with the young girl and the first offender.

Whenever a younger woman or a first offender needs special medical care, industrial training, or more discipline than probation affords, she may be sent to one of three private institutions, where she will receive special training. The slightly more hardened offenders go to the State Reformatory at Bedford, while the older cases and the habitual offenders go to the workhouse. The institutions are greatly hampered by the lack of a mental clinic in the court. The Children's Court of New York City is fortunate in having such a clinic. To it the judge may refer any child who comes before him who seems in any way mentally abnormal or subnormal. After examination and diagnosis, the psychiatrist makes such recommendations as can guide the judge in his disposition of the case. The Women's Court sadly needs such a clinic. It is hopeless for a reformatory institution to try to prepare for useful citizenship a girl with an actual age of nineteen or twenty, but with a mental age of seven or eight. These are the girls who become recidivists, not through any actual viciousness, but because they are generally accepted by their family and relatives as grown up and are not protected as a child would be, although they are, by reason of their mature appearance, less able than a child of seven to protect themselves, and are easily tempted and exploited by unscrupulous persons.

In 1918 a law was passed which made it possible for the judges of the Women's Court to remand for observation any girl or woman convicted of prostitution whom they might suspect to be feeble-minded. We did not believe that this law would take the place of a mental clinic, but we hoped it might be an entering wedge. As a matter of fact, it has so far been used only sufficiently to prove that it is practicable. Lack of any machinery to carry it out and the overcrowded conditions of hospitals and institutions resulting from the war has greatly hampered its administration.

One of the fundamentals of American life is the family, and those of us who have done correctional work realize that when the family fails the children become the material that drifts into our Children's Court, or Women's Court, and our adult criminal courts. In a study

of a thousand boys in juvenile reformatories made within the last few years by a western university it was learned that more than 50% of them came from broken homes. For this reason the Domestic Relations Court is one of our most important courts. It is a special Magistrates' Court, with jurisdiction for the whole borough of Manhattan. There are also Domestic Relations Courts in Brooklyn and The Bronx to serve those boroughs. To this court the chief city magistrate assigns two magistrates whom he considers peculiarly fitted to deal with the problems it presents. This court is greatly in need of reforms, even though last spring we secured the passage of a new Domestic Relations Court Act which does provide certain important changes, but as Miss Abbott has said, "It is easier to get laws passed than to have them enforced."

The name of the Domestic Relations Court is misleading because it does not deal with all difficulties which occur between a husband and wife. If a husband beats his wife and she makes a complaint, it must be taken to an ordinary district court on a charge of assault or disorderly conduct. It is possible that at such a time there might be a case against this man pending in the Domestic Relations Court, but that case could be only on the ground of his failure to support his wife and their children. It would seem quite logical that the magistrate who has received a report on the family from an investigator or probation officer in such a case, who, perhaps, had heard evidence from each concerning their family difficulties, would be the proper judge to hear a complaint involving further family troubles, even including violence, but such is not the case. One of the judges who sits in the Domestic Relations Court has said that if the letter of the law were followed, it would be a purely financial court. The only technical question it has a right to consider is whether or not a man is adequately providing for his wife and family, or if a young person is properly supporting an aged relative. Fortunately the judges do not hold too rigidly to the letter of the law and some very excellent social work is done in this court, and plans for the enlargement of its powers are already under way.

Under the law as it existed before July 1, 1919, a woman must at least theoretically make her application for court assistance through the Department of Public Charities and on the ground that she was in danger of becoming a public pauper, and the court could only compel a man to pay enough for the support of his wife and children to keep them from actually becoming "a charge upon the public," in other words, just barely enough to keep them from starvation. This

was a relic of an old English law which sought to protect the pockets of the taxpayer rather than to preserve the family as a social unit. The new law permits a woman to make an application for support direct to the court, and as a matter of right rather than a matter of charity. Further, it provides that a man shall provide for his family in accordance with his income, which seems eminently right and fair.

According to the old law a man, by serving a six months' sentence in the workhouse, bought himself immunity from prosecution for another six months. During his term in the workhouse, where he was housed, clothed and fed, his wife might be struggling to keep the family together, or else be forced to depend on public or private charity, and when he was released he was free from any family obligation for a further six months so far as action in the Domestic Relations Court was concerned. This, of course, was a most absurd arrangement and such provision is removed in the new law. A great effort is made in the Domestic Relations Court not to send men to the workhouse, but by placing them on probation, to compel them to work and support their families.

Under the old law, many non-support cases were investigated by the Department of Public Charities, as well as by attaches of the Domestic Relations Court. This meant unnecessary and expensive duplication. The new law transfers the Domestic Relations Bureau of the Department of Public Charities to the court, so that all stigma of charity is removed from the woman who asks support for herself and her children as a matter of right. While this new act is a step in the right direction, the Domestic Relations Court needs greater powers. When the constitutional amendment, which has passed one session of the legislature and will be introduced again next year, becomes law, it will give equity power to Children's Courts as well as Courts of Domestic Relations, making it possible for the Domestic Relations Court to deal with differences between a husband and wife other than those involving family finances. It is only right that if a Domestic Relations Court judge can order a man to pay a certain sum for the support of his wife and children that he shall also have the authority to say whether or not the man may be permitted to visit his children.

An effort is made at the Domestic Relations Court to have as many cases as possible adjusted without a formal trial, because once a man and wife go on a witness stand, she to justify her appeal to the court for assistance, he to justify his failure to live up to his family obligations, the recriminations are apt to be so bitter that even if reconciliation had been possible before the trial, it is often difficult after.

This, of course, cannot be done without a thorough investigation, for which reason the judges often adjourn the case, placing the family under supervision or probationary oversight during the adjournment in the hope of keeping the family together for the sake of the children, if there is any justification for so doing.

Seventy-five per cent of all probation cases in the Magistrates' Courts in 1918 were Domestic Relations Court cases. The Probation Department has a separate bureau for this type of cases, which is housed at the Domestic Relations Court, but the number of probation officers is totally inadequate even with the inspectors of the Department of Public Charities, who became part of the staff of the Domestic Relations Court on July 1, 1919. We all realize that if a probation officer is carrying 200 or more cases, as I regret to say that some of our Domestic Relations Court probation officers are doing, he can not do proper constructive work, neither can he do work satisfactory to himself. No conscientious officer likes to feel that he is merely brushing the surface and leaving undone many things he knows would add materially to the success of his work, and if he works many hours overtime, even to the limit of his endurance, and still cannot keep up with his accumulation of cases, it is sufficiently discouraging and disheartening to drive good men and women out of the service. The Committee on Criminal Courts has begun already to plan a campaign for this fall to secure additional probation officers for the Magistrates' Courts and the need is so great it seems as though we must succeed.

There is a volunteer committee of women at the Domestic Relations Court which strives to supplement the work of the probation officer, to visit the homes and to supervise families during adjournment. It seems to us that the Domestic Relations Court is peculiarly a woman's problem, and now that the women are becoming aroused to realize that it is the feeder of the Children's Court, the Women's Court and adult criminal courts, we hope that more can be done. It is sometimes hard to convince the appropriating body of a municipal government of the economy of money as well as of manhood in placing a man on probation rather than giving him a workhouse sentence, but if they could be made to realize that an adequate staff of probation officers saves the cost of the maintenance of a man in the workhouse while his wife and children may be dependent on public or private charity for support, I believe we could secure sufficient probation officers to properly supervise all cases.

The Traffic Court is the special court, which is known, perhaps,

almost as well as the Women's Court. It was established in 1915, and has been a great success in supporting the police department in handling traffic problems, which in a city the size and shape of New York are of necessity extremely difficult.

In 1914 the Committee on Criminal Courts, as it watched the administration of the courts, found that there were many cases of a trivial nature coming daily before them which the magistrates did not have power to dispose of summarily, but were compelled to hold for trial before the Court of Special Sessions because they were technically misdemeanors. It seemed as if great hardship was done by the double trial. In a case, perhaps, where a push-cart peddler who had left his fish uncovered, was arrested, charged with a misdemeanor, he was arraigned first in a Magistrates' Court and then held for trial in the Court of Special Sessions. As he was usually a poor man, he was more than likely not to secure bail, so he was held in jail until his case came up, at which time he might be fined a small amount, or he might be acquitted, but almost never was he given a jail sentence equivalent to the time he had already been held to await his trial.

For three months the staff of the committee studied a group of such minor misdemeanors, following the cases through the Magistrates' Court until finally disposed of by the Court of Special Sessions. The results of this study were amazing and distressing. It was found that not the violation of the law, but the mere fact of being poor was cause for incarceration equal to imprisonment for debt mentioned by Miss Abbott.

Statistics showed that the Court of Special Sessions acquitted or let go without trial, because of insufficient evidence, an average each day of one person who had been held in jail awaiting trial, and that every year nearly eight hundred persons were so deprived of their liberty for periods ranging from three to twenty-one days in length, and worse still, in most of these cases, the offense charged would not have warranted so great a punishment even if the person had been found guilty.

Such a state of affairs not only meant the feeling of injustice and humiliation of those subjected to this unwarranted term in jail, with the attendant loss of employment, financial loss, family distress, bad associations, etc., but was uneconomic from the point of view of the taxpayer. The double trial was a waste of time, not only of court officials, but of policemen, city inspectors, citizen complainants and witnesses.

It was the discovery of this inhuman and clumsy working of the

system which prompted the amendment providing that a magistrate might sit as a Special Sessions judge to hear certain types of misdemeanors and to dispose of them summarily.

The Committee on Criminal Courts fathered this amendment and secured its passage and co-operated closely with the Magistrates' Courts in preparing the plans to carry it into effect.

The greater number of the cases which could be summarily disposed of by a magistrate with Special Sessions powers were violations of health, fire, or building ordinances, labor or similar laws. These were heard in the district courts throughout the city, which meant that the inspectors spent a great deal of time traveling from court to court, and possibly that part of each day might have to be spent attending court. It also meant that technical offenders of a non-criminal character were crowded in with defendants who might be burglars, pick-pockets, or the like. This and the need for securing uniformity of disposition and the most efficient handling of a large volume of cases of a similar nature led the committee to work out with the Board of City Magistrates a plan for the fifth and probably least known of the special Magistrates' Court—this is the Municipal Term Court. Let us review briefly what it has achieved and how it functions.

The Municipal Term Court is reserved exclusively for those cases in which the city or state department is the complainant. It has relieved congestion of district courts, has secured uniformity and expert disposition of departmental cases by bringing them to one court before magistrates especially assigned for the work.

It has increased the convenience and co-ordination of the work of prosecution by city and state departments in New York City, by providing a tribunal where, under one roof, on a day specially set for each department, the cases may be conducted with efficiency and dispatch.

It has also provided a court room and surroundings to which the non-criminal class, who usually merely offend some welfare statute or ordinance, may come without mixing with the criminal class generally found in district courts.

I have said that a day is set apart for the cases brought by each department. This, of course, is a great economy of time for the inspectors and other department officials, as it means that all their court work is concentrated in one day.

Monday, for instance, is Fire Prevention Day. The Bureau of Fire Prevention and the Fire Department on this day bring into court all cases where the city ordinances in matters of fire prevention and

protection have been violated. It may be the case of a man who runs a small delicatessen business and is using a cauldron of boiling fat in the cellar of a dwelling house. It may be the case of a factory owner, an employer of girls, who has kept his fire escapes locked or blocked up, or some similar disregard of the law. Since the Municipal Term Court was established there has been a decided improvement in the compliance with laws which require installation of fire prevention devices in factories, while safety and protection in hotels, hospitals and lodging houses have been greatly enhanced by the impartial enforcement of penalties on all delinquents and a standard treatment of cases.

Tuesday is the day for Health Department; cases against dealers who have sold adulterated foodstuffs, manufacturers who have dispensed hair tonics largely composed of wood alcohol or other injurious patent medicines, push-cart peddlers who sell decayed food, or shopkeepers who permit unsanitary conditions in their stores, are heard on this day.

Wednesday is the day of the Tenement House Department. On that day are also heard violations of park ordinances and cases in which the Department of Licenses, the Bureau of Buildings, and the Departments of Water Supply, Gas or Electricity are complainants.

Thursday the State Industrial Commission and the Department of Labor are heard. Infringements of the child labor laws, cases of unsanitary working conditions and the disobedience of laws providing the working hours of women come into the court on Thursdays.

Friday is the day of the Education Department, when it seeks to enforce the compulsory education law. The defendants on this day are very often foreigners—many times men who are making good incomes, but who are so avaricious that they force their children to stay away from school to earn a bit extra for the family. The children, in a number of instances, prefer to go to school, but are timorous of saying so even to a sympathetic judge, probably because they know that if they make such a statement the hour of reckoning will come after they have left the court.

The cost to the city for one year was between \$19,000 and \$20,000, while in the same year over \$55,000 in fines was collected in this court. A statement so eloquent as this needs no elaboration to emphasize the economy as well as the social value of this court.

The study which led to the establishment of the Municipal Term Court also showed that the use of the summons could safely be extended. This has been done and the inefficiency and unnecessary

humiliation of arresting and marching to police stations for trivial violations of laws or ordinances has thereby been prevented.

The last of the special courts has not yet been established, but plans are being made so that it can become a fact in the near future. It is the Probation Court. To it will go all cases in which probation has been violated or in which the probation officer is dissatisfied with the manner in which the conditions of probation are being complied. The judge of this court will also review all probationers at the end of the period of probation and give those who have lived up to their promises and responsibilities an honorable discharge and a word of encouragement with which to go on.

We are awaiting the opening of this court with interest and with high hopes for its effectiveness.